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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,797	09/04/2003	Niel F. Starksen	578492001500	7101

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MORRISON & FOERSTER LLP
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PALO ALTO, CA 94304-1018

EXAMINER

DOWE, KATHERINE MARIE

ART UNIT	PAPER NUMBER
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3734

MAIL DATE	DELIVERY MODE
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06/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/656,797	Applicant(s) STARKSEN, NIEL F.	
	Examiner KATHERINE M. DOWE	Art Unit 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45, 47, and 49-60 is/are pending in the application.
- 4a) Of the above claim(s) 1-34, 37-45 and 51-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35, 36, 47, 49 and 50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/19/2008 and 5/6/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/19/2008 has been entered.
2. Claims 1-34, 37-45, and 51-60 are withdrawn for consideration, claims 46 and 48 are cancelled, and claims 35, 36, 47, 49, and 50 are currently under examination.

Response to Arguments

3. Applicant's arguments, see amendment, filed 2/19/2008, with respect to the rejection(s) of claim(s) 35, 36, 47, 49, and 50 under Brock et al. (US 2002/0087169) in view of Mahurkar et al. (US 5,221,255) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Adams et al. (US 7,004,958).

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 35, 36, 47, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (US 7,004,958) in view of Brock et al. (US 2002/0087169). Adams et al.

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disclose a housing (40) at the distal end of a rigid shaft, where the housing comprises an aperture (44) through a wall (42) spanning the longitudinal length of the housing for retaining a mandrel (50) therein. The mandrel releasably couples a plurality of anchors (30) with the housing (column 7, lines 1-15). The anchors are curved hooks (Fig 3). The mandrel may be considered a pivot mandrel in that the proximal movement of the mandrel causes the hooks to pivot out of the housing through the aperture to be delivered to engage annular tissue (column 7, lines 22-29). The device further comprises an expandable balloon (60) that aids in driving anchors into annular tissue by urging the housing against the tissue into which the anchors will be driven.

Adams et al. teach the anchors pierce annular tissue to increase the radius of curvature of the annulus and thus improve valve annulus action (column 7, line 59 -column 8, line 8). However, Adams et al. do not disclose the anchors are tethered together. Brock et al. disclose a similar device comprising a plurality of anchors (350) that are connected by a tether (312) such that when the anchors driven into annular tissue, the tether may be cinched to increase the radius of curvature of the annular tissue thereby decreasing the diameter of the annular tissue and improve valve annulus action (Figs 32-33). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Adams et al. to include a tether linking the anchors such that the anchors may be cinched together to further increase the radius of curvature of the annular tissue and further improve valve annulus action.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KATHERINE M. DOWE whose telephone number is (571)272-3201. The examiner can normally be reached on M-F 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin T. Truong/
Primary Examiner, Art Unit 3734

Katherine Dowe
June 3, 2008

/K. M. D./
Examiner, Art Unit 3734